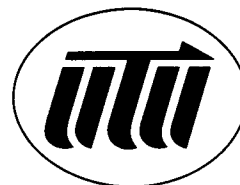


20385
CHARLES L. LITTLE
International President

BYRON A. BOYD, JR.
Assistant President

PAUL C. THOMPSON
General Secretary and Treasurer

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LEGAL DEPARTMENT

CLINTON J. MILLER, III
General Counsel

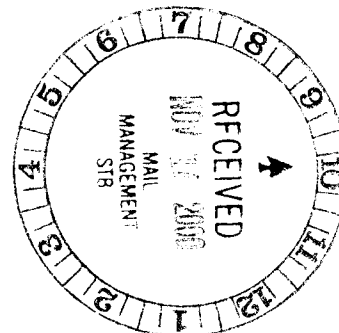
• KEVIN C. BRODAR
Associate General Counsel

• ROBERT L. McCARTY
Associate General Counsel

• DANIEL R. ELLIOTT, III
Assistant General Counsel

November 16, 2000

Mr. Vernon A. Williams, Secretary
Office of the Secretary, Case Control Unit
ATTN: STB Ex Parte No. 582 (Sub-No. 1)
SURFACE TRANSPORTATION BOARD
1925 K Street, N.W.
Washington, DC 20423-0001



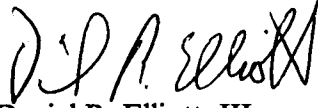
Re: STB Ex Parte No. 582 (Sub-No. 1)

Dear Mr. Williams:

Please find enclosed the original and 25 copies of United Transportation Union's Comments in the above-captioned matter for filing. In accordance with Board orders we have also enclosed a disk in WordPerfect format.

ENTERED
Office of the Secretary
NOV 17 2000
Part of
Public Record

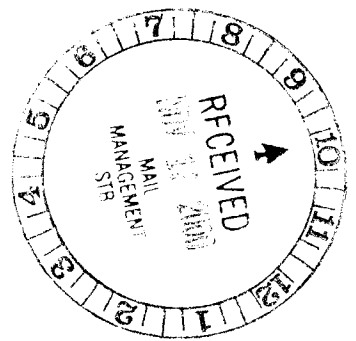
Sincerely,


Daniel R. Elliott, III
Associate General Counsel

Enclosures

cc: C. J. Miller, III, General Counsel

200385



**Before the
SURFACE TRANSPORTATION BOARD**

**ENTERED
Office of the Secretary**

STB Ex Parte No. 582 (Sub-No. 1)

NOV 17 2000

**Part of
Public Record**

**MAJOR RAIL
CONSOLIDATION PROCEDURES**

**COMMENTS OF
UNITED TRANSPORTATION UNION'S**

United Transportation Union ("UTU") respectfully submits its comments on the proposed modifications to the Surface Transportation Board's ("STB") regulations at 49 CFR part 1180 governing proposals for major rail consolidations. The Board states that these proposed new rules would increase the burden on major rail consolidation applicants to demonstrate that a proposed transaction is in the public interest.

UTU, which is the largest rail labor organization in the United States and whose members have borne a significant portion of the adverse effects from major consolidations over the years, obviously is most concerned about how the proposed modifications affect its members. The abrogation of collective bargaining rights by carriers under the guise of procedures in these mergers has been a serious problem for UTU and its members over the past 2 decades, and decisions by the Interstate Commerce Commission, STB and the courts during that time have made problems worse. In response to this problem, as the Board notes in its comment on Proposed § 1180.1(e): Labor protection, UTU recently met with the Class I carriers to negotiate a solution. After much discussion, UTU and the signatory Class I carriers on February 11, 2000, signed Revised Standards for

Preemption of Collective-Bargaining Agreements for Transactions Initiated Pursuant to Section 11323 of the Interstate Commerce Act (a copy of same is attached hereto as Exhibit A). The Revised Standards address the “cram down” issues to the satisfaction of UTU. The parties reached their agreement to the Revised Standards by bargaining under the Railway Labor Act, 45 U.S.C. § 151 *et seq.* The parties intend the Revised Procedures to be prescribed by statute in the future and not as conditions imposed and administered by the STB. The parties have also agreed that their agreement is not itself subject to the exemption provision in the Interstate Commerce Act, 49 U.S.C. § 11321(a).

This agreement removes the labor relations issue of collective-bargaining agreement changes after mergers and acquisitions from the control of the STB. This change is in line with decisions which indicate that the STB’s predecessor, the Interstate Commerce Commission, did not consider itself a labor relations agency. *See Leavens v. Burlington Northern, Inc.*, 384 I.C.C. 962, 975 (1977). This agreement now frees the STB to administer to transportation issues and get out of the labor relations business.

The Board stated that “we urge the major railroads and their unions to negotiate broad-based agreements about issues of contention in this area and to report back to us with their results as soon as possible,” like the UTU has already done with the signatory Class I carriers. UTU remains steadfast in its belief that this approach is the best method to resolve “cram down” issues and believes the pertinent regulation should reflect that position.


While UTU believes that this agreement addresses the “cram down” issues, the positions of rail labor on other labor issues in major rail consolidations should be given more consideration in line with 49 U.S.C. § 10101(11). UTU notes that there is no mention of rail labor in proposed §§ 1180.1(a), (c), (h). UTU believes rail labor is a necessary voice on the Service Council in proposed

§ 1180.1(h). As a result, rail labor should be specifically mentioned in this provision and these other cited provisions.

CONCLUSION

Based on the foregoing discussion, UTU asks the Board to incorporate UTU's position into the final rules.

Respectfully submitted,




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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Comments of the United Transportation Union have been served this 16th day of November, 2000 via first-class, postage pre-paid, upon the following:

All Parties of Record



Daniel R. Elliott, III